

Professional Liability  
Virginia Filing Checklist

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
<b>FORMS</b>		
<b>Applications</b>		
Applications are not subject to approval and should not be submitted.	<a href="#">§ 38.2-317</a> <a href="#">§ 38.2-305</a>	Applications must not contain conditions of coverage that are not also stated in the policy form.
Fraud Statement Required	<a href="#">§ 52-40 B</a>	If the fraud notice uses wording other than the statutory wording, approval of the Fraud Bureau of the Virginia State Police is required. The statutory language is as follows: "It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."
Warranties in Applications Prohibited	<a href="#">§ 38.2-309</a>	Statements in applications are representations, not warranties, and may not be used to bar recovery unless the statement was material to the risk and proven untrue.
<b>Arbitration</b>		
Binding Arbitration Provisions Prohibited	<a href="#">§ 38.2-312</a> <a href="#">Administrative Letter 1998-12</a>	The arbitration process may be required as a precedent to coverage; however, the results of the arbitration cannot be made binding upon the insured.
<b>Bankruptcy Provision</b>		
Required	<a href="#">§ 38.2-2200</a>	Provisions must address bankruptcy or insolvency of the insured or the insured's estate as well as when an action may be maintained against an insurer (unsatisfied judgement clause).
<b>Cancellation &amp; Nonrenewal</b>		
Advance Written Notice Required	<a href="#">§ 38.2-231</a> <a href="#">Administrative Letter 1987-14</a>	Fifteen days notice to all named insureds is required if cancellation or non-renewal is for non-payment of premium; 45 days notice is required for all other reasons.
Calculation of Return Premiums	<a href="#">§ 38.2-305</a>	The method of calculation of return premiums upon cancellation must be clearly stated in the policy.
<b>Filing Standards</b>		
30-days Prior Approval	<a href="#">§ 38.2-317</a> <a href="#">Administrative Letter 1990-3</a>	Forms must be filed at least 30 days prior to the proposed effective date and will be approved or disapproved within 30 days of receipt by the Bureau. This 30-day period may be extended by the Bureau in writing for an additional 30 days if necessary. The cover letter must request implementation based on "policies effective" on and after a specific date which is at least 30 days after the filing will be received by the Bureau.
Clear and Unambiguous Language	<a href="#">§ 38.2-317</a>	Policy forms and endorsements shall not contain misleading, inconsistent, ambiguous, unclear, or deceptively worded provisions, exceptions, or titles.
Contents of Policies	<a href="#">§ 38.2-305</a> <a href="#">§ 38.2-310</a>	The policy must include all conditions pertaining to the insurance. All fees, charges, premiums or other consideration charged for the insurance must be stated in the policy.
Countersignature	<a href="#">§ 38.2-323</a>	Countersignature requirements are prohibited in Virginia. Forms must not contain provisions that deem the policy invalid due to the absence of the signature or countersignature of an agent or company representative.
Type Size	<a href="#">§ 38.2-311</a>	All policy forms and endorsements must be printed in 8 point or larger type.
Line of Authority	<a href="#">§ 38.2-117</a>	The coverage provided must be included in the definition of Personal Injury Liability and the company must be licensed to write this line of insurance.

Claims-Made Extended Reporting Requirements	<a href="#">Chapter 335 (14 VAC 5-335-10 et seq.) of Title 14 of the Virginia Administrative Code</a>	<p>An Extended Reporting Period option (ERP) must be offered to the named insured upon cancellation or nonrenewal of claims-made coverage by either the insurer or the insured, upon advancement of any retroactive date, or upon renewal on other than a claims-made basis. To the extent that policy limits apply separately to each named insured, each named insured shall be separately entitled to purchase an ERP. The insurer does not have to offer the ERP if cancellation or nonrenewal is due to nonpayment of premium, failure to comply with terms or conditions of the policy, or fraud.</p> <p>For medical professional liability insurance, an unlimited ERP must be offered; however, more limited options may also be offered. For all other claims-made liability insurance policies, a two-year extended reporting period must be offered. However, greater or more limited ERPs may also be offered. The insured must be allowed at least 30 days after coverage ends in which to purchase the ERP. Once in effect, the ERP cannot be cancelled by the insurer except for nonpayment of premium or fraud.</p> <p>Except with respect to ERPs of 60 days or less provided automatically without a premium charge, insurers must offer ERPs with unimpaired limits of liability equal to the limits of the policy being extended. Higher or lower limits may also be offered. The ERP coverage can apply as excess over other coverage, but the insurer cannot void coverage if other insurance applies.</p> <p>When an insurer excludes any existing coverage from a claims-made policy, and the policy remains in effect or is renewed, the insurer must offer an ERP on the same basis that the ERP would be offered if the entire contract were being terminated.</p> <p>Refer to Chapter 335 of Title 14 of the Virginia Administrative Code for notice requirements and additional details.</p>
Liberalization Clause		
Not Required		
Loss Settlement		
Limiting Time To Bring Action	<a href="#">§ 38.2-314</a>	No provisions shall limit the time to bring action to less than one year after a loss occurs or a cause of action accrues.
RATING		
Pricing		
Rates are File-and-Use <u>Unless</u> Exempted by Administrative Order	<a href="#">§ 38.2-1906</a> <a href="#">§ 38.2-1904</a> <a href="#">Administrative Order 11248</a>	Rates must be filed on or before the proposed effective date and must not be excessive, inadequate, or unfairly discriminatory. Exempts rates for Architects & Engineers professional liability.
Certification Required	<a href="#">Administrative Letter 1987-11</a>	A completed and signed Form COF-1 must be provided.
Specific Rates Required	<a href="#">§ 38.2-1906</a>	Ranges of rates are not permitted.
"Refer to Company" References	<a href="#">Administrative Letter 1985-11</a>	"Refer to Company" rules must indicate resulting rates must be filed with the Bureau prior to use.
Birth Injury Fund Credits	<a href="#">§ 38.2-5020.1</a>	Premium credits are required for participating doctors, hospitals, and midwives.
Rules for Forms	administrative requirement	A rating rule must be filed for every premium-bearing endorsement.
Claims-Made Rates	<a href="#">§ 38.2-1904</a> , <a href="#">§ 38.2-1906</a> <a href="#">Administrative Letter 1990-3</a>	Claims-made rates must include maturity steps, if applicable. Specific rates must be filed for extended reporting coverage, if applicable. Rates charged for ERP must be those in effect on the effective date of the policy.
Premium Waiver Rules	<a href="#">Administrative Letter 1983-12</a>	Return premiums must be paid upon request and the named insured must be notified that a return premium is available.
Capping Rate Increases	<a href="#">§ 38.2-1906</a>	An insurer may limit for renewal policies any rate increase that would otherwise apply for a period of time specified in the filing.

Rating Plan Requirements		
Experience and Schedule Rating Plans	<a href="#">§ 38.2-1901</a> <a href="#">§ 38.2-1904</a> <a href="#">Administrative Letter 1983-9</a>	Maximum total credits/debits must be specified. Rules must state how modifications will be combined (additively or multiplicatively) and whether expense modifications are included in, or separate from, such plans.
Documentation Required	<a href="#">Administrative Letter 2001-12</a>	Insurers must obtain documentation to support schedule debits and credits and update said documentation at renewal.
Expense Reduction Plans	<a href="#">§ 38.2-1904 E</a>	<a href="#">Plans may contain provisions allowing agents to reduce their commission, resulting in an appropriate reduction in premium.</a>
General Filing References		
Cover Letter	<a href="#">Administrative Letter 1983-7</a> <a href="#">Administrative Letter 1990-3</a>	The cover letter must contain the NAIC number and full company name of each company for which the filing is submitted. The cover letter must request implementation based upon "policies effective" on and after a specific date.
Third Party Filers	administrative requirement	Third party filers must provide a signed letter of authorization or a signed filing authorization form. The form is included in the Virginia Filing Guidelines Handbook.
Forms List Withdrawing or Replacing Forms or Manual Pages	administrative requirement	An updated list of forms, including titles, form numbers, and edition dates, must be provided with every filing that includes forms. Mandatory forms may be indicated as such by use of an asterisk or other symbol, in lieu of a rule. The cover letter should indicate whether any forms or manual pages are being replaced or withdrawn.
Copies, Return Envelope	administrative requirement	A complete copy of the filing must be provided for each company for which the filing is submitted. An extra copy of the cover letter must be included for acknowledgement, along with a postage-paid return envelope.

Access to Administrative Letters, Administrative Orders, Regulations and Laws is available on-line at

<http://www.scc.virginia.gov/division/boi/webpages/boiadministrativeltrs.htm>

The Commercial Casualty Rates and Forms Section handles professional liability insurance filings. Please contact this section at (804) 371-9298 if you have questions or need additional information about this line of insurance.

**CERTIFICATION OF FILING**

I hereby certify that I have reviewed the attached professional liability insurance filing and determined that it is in compliance with the professional liability checklist.

**Signed:** \_\_\_\_\_

**Name (please print):** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Phone No. (     )** \_\_\_\_\_ **FAX No. (     )** \_\_\_\_\_

**E-Mail Address:** \_\_\_\_\_